



April 24, 2015

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

Email: regcomments@ncua.gov

RE: NCUA's Risk-Based Capital Proposal, RIN 3133-AD77

Dear Secretary Poliquin and Members of the NCUA Board:

On behalf of the Board of Directors and Executive Management Team of Black Hills Federal Credit Union (BHFCU), I am writing in response to NCUA's request for comment on the proposed rule regarding risk-based capital (RBC) requirements. Black Hills Federal Credit Union is a community chartered, low income designated credit union serving members in the South Dakota counties of Pennington, Meade, Fall River, Custer, Lawrence, Haakon, Hughes, Stanley, and Butte. We also serve the Cheyenne River Indian Reservation in South Dakota, consisting of Dewey and Ziebach counties. BHFCU currently serves 60,701 members and has assets of approximately \$1.035 billion.

We would like to thank the NCUA for listening to credit union comments on the initial risk based capital proposal and making many necessary changes. Although the revised Risk Based Capital proposal is an improvement over the original proposal, there are still some areas of concern that need to be addressed.

Risk-Based Capital Proposal Should Be Abandoned

We still believe this risk-based capital proposal is not justified and should be abandoned. J. Mark McWatters, one of the three NCUA Board Members, dissented on this second risk-based capital proposal on the grounds that the NCUA does not possess the legal authority to adopt a two-tier RBNW standard. We agree with Board Member McWatters that a credit union should not have to meet both capital requirements. It is overly burdensome to require credit unions to meet both the net worth ratio of 7.00% and a risk-based capital ratio of 10.00% in order to be considered well-capitalized.

While we appreciate the NCUA lowering the threshold for a well-capitalized credit union from the initial proposal of 10.50% to 10.00%, it is still too high and remains well above the proposed 8.00% requirement for an adequately capitalized credit union.

Credit unions weathered the Great Recession well under the current Prompt Corrective Action (PCA) regulation. During that time, the PCA requirement worked as intended and protected the credit union system and National Credit Union Share Insurance Fund (NCUSIF) from losses incurred from natural person credit unions. Overall, credit union losses were insignificant to the NCUSIF. Credit unions were resilient during one of the most severe economic downturns in history without an RBC program, so why is one needed now?

If it is the NCUA's desire to have a risk-based capital program, then we strongly recommend the NCUA address Board Member McWatters' concern and reach a unanimous decision. This proposed rule has such significant implications to credit unions that it should be agreed upon unanimously by the NCUA Board. We also believe that if the NCUA wants authority to implement such a rule, it must go back to Congress and ask for authority to implement.

Capital Adequacy Plan

The requirement for complex credit unions to have a capital adequacy plan is concerning and poorly defined. The proposed capital adequacy plan did not address our concern from the initial proposal and still gives an examiner the ability and authority to impose additional capital requirements. This amount of discretion, subjective judgment, and inconsistent interpretation may lead to abuse of power and could lead to significant, avoidable and unfair ramifications for credit unions. If the NCUA has concerns regarding the credit unions they supervise, those specific situations should be addressed on an individual basis and not through onerous regulation blanketing all complex credit unions. Well capitalized and managed complex credit unions should not be held guilty by association to the exception!

In addition, well-capitalized credit unions should be allowed to manage their capital without the burden of regulation or examiner discretion. If a credit union meets the net worth and risk-based capital requirements to be considered well capitalized, the adequacy and sufficiency of its capital should not be of concern nor should it require additional capital. To require complex credit unions to develop a capital adequacy program and assess it on a regular basis is an unnecessary task that takes time and resources, rather than allowing us to serve our members!

Interest Rate Risk

We appreciate that you have removed interest rate risk (IRR) as a component of the risk weights from the proposed rule; however, we still have concerns about the potential for additional regulation. In 2012, a comprehensive interest rate risk regulation was added

and imposed on credit unions. Additional rules and regulations should not be needed three years removed from implementation of the IRR rule. In addition, the NCUA has implemented many sets of guidance or regulation on liquidity risk and concentration risk over the past few years. Current interest rate risk and asset-liability management rules and regulations provide more than sufficient guidance on how credit union board of directors and managers should manage, monitor, measure, and control interest rate risk exposures. We strongly discourage the NCUA from proposing any further interest rate risk regulation or guidance.

Call Report

Currently, on the certification page of the NCUA 5300 Call Report, there is a statement indicating the public reporting burden of this collection of information is estimated to average 6.6 hours per response, including the time for reviewing instructions, searching existing data needed, and completing and reviewing the collection of this information. We believe the existing estimate is grossly understated as the variety of data needed to generate the report takes employees from multiple departments approximately ten times the estimated average of 6.6 hours. We fear that the proposed risk-based capital regulation will only exacerbate the current reporting burdens associated with the quarterly Call Report. We urge the NCUA to consider the time and resources dedicated to producing the additional Call Report data needed from the proposed rule and focus on minimizing that burden and impact to credit unions.

Mortgage Servicing Rights

We believe the mortgage servicing rights risk weighting of 250% sends the wrong message to credit unions and is unwarranted. A risk weighting this high forces credit unions to either take on additional interest rate risk by holding more fixed-rate mortgages on their balance sheet so they can continue to serve their members, or it encourages them to not provide service to their members by selling their loan to another financial institution who is willing to service the loan. Although we do not currently service loans sold into the secondary market, we have considered doing so. Because of regulations from the CFPB and risk weights like this, we are discouraged from managing our mortgage portfolio and member relationships this way. We encourage a reduction in this risk weighting as it penalizes credit unions for managing interest rate risk and maintaining a relationship with their member.

Summary

We thank the NCUA for addressing many of the concerns credit unions had with the initial proposal. Although the revised risk-based proposal is much better, there are still issues and concerns that need to be addressed before implementing a final rule as significant and substantial as this. It is important for the NCUA to remember that credit unions did not cause the recession, yet the regulations that continue to be imposed are penalizing credit unions and stifling their growth. As historical data has proven, credit unions, in

most cases, have been very conservative and have taken on less risk than their competitors.

This risk-based capital proposal is not justified and should be abandoned. If the proposal is not abandoned, we recommend the NCUA address, at a minimum, the following items:

- Given the enormity of the proposed rule, we recommend the NCUA Board reach a unanimous decision on a Risk-Based Capital Rule. We believe the NCUA should address Board Member McWatters' concern that the NCUA does not possess the legal authority to adopt a two-tier RBNW standard.
- We recommend removal of the capital adequacy plan requirement. Well capitalized credit unions should be allowed to manage their capital without the burden of regulation or examiner discretion.
- Additional interest rate risk rules and regulations are unwarranted and should be avoided. We strongly discourage the NCUA from proposing any further interest rate risk regulation or guidance.
- We urge the NCUA to consider the time and resources dedicated to producing the additional Call Report data needed from the proposed rule and focus on minimizing that burden and impact to credit unions.
- We disagree with the risk weighting applied to mortgage servicing rights and believe it should be lower as it is penalizing credit unions for managing interest rate risk and maintaining a relationship with their member.

Credit unions already face many undue regulatory burdens. These regulatory burdens continue to take the focus away from serving members and redirecting our focus on responding to regulations. Based on our aforementioned recommendations, we believe the NCUA should abandon their risk-based capital proposal and continue with the Prompt Corrective Action regulation that served credit unions so well during the Great Recession.

We thank you for the opportunity to comment and for your time and consideration. We encourage you to make the best decision for credit unions and the members they serve.

Respectfully,



Roger R. Heacock
President & CEO

cc: Credit Union Association of the Dakotas